REMARKS/ARGUMENT

This amendment responds to the Office Action of December 14, 2006.

The specification has been amended to correct an incorrect statement in Paragraph [0003] and to correct grammar and spelling in paragraphs [0031] and [0083]. The Examiner's attention is directed to U.S. Patent No. 7,173,049, which is the equivalent of International patent application WO 02/069713, referred to in paragraph [0003] of the present application.

Claims 1-20 are pending in the application, with claims 1-17 having been amended and new claims 18-20 added.

Claims 1-17 have been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. Specifically, according to the Examiner:

> " ... [T]he specification, while being enabling for combating / controlling fungi growth in crops using a composition comprising 2,6-dichloro-N-{[3-chloro-5-(trifluoromethyl)-2-pyridinyl]methyl}benzamide (la) and chlorothanil (see specification pages 10-14) does not reasonably provide enablement for curing or preventing fungi growth in crops using said composition. The specification is also enabling for composition comprising 2,6-dichloro-N-{[3-chloro-5-(trifluoromethyl)-2-pyridinyl]methyl}benzamide (la) and chlorothanil since unexpected results are provided on pages 10-14 of the

specification. However the specification is not enabling for all other compounds of instant formula I being combined with chlorothanil. Other compounds of formula I in the claims are structurally and functionally different from compound la. Therefore on its face, it is not believable that compound la would be respective of all other compounds of formula disclosed in the claims.

Lastly, with regards to the prevention (prophylaxis) / curative of fungi growth in crops, the specification lacks the critical steps necessary in presenting some type of predictable response in a population of crops deemed necessary to prevent or cure fungi growth in crops. ..."

It is noted that U.S. Patent No. 6,503,933, cited by the Examiner, and EP-A-1056723, an equivalent thereof cited in the present application in paragraph [0002] and thereby incorporated therein by reference, disclose a large number of 2-pyridylmethylamine derivatives, including some, if not all, of those of the present invention and disclose their utility as fungicides. Claims 5 through 9 of that patent are directed to a method of combating phytopathogenic fungi and there are a number of examples demonstrating such utility. Accordingly, it is known in the art that such 2-pyridylmethylamine derivatives are efficacious for such combat.

The present applicants have found that such 2-pyridylmethylamine derivatives, in combination with chlorothalonil, also exhibits such utility and, in fact, have shown combinations of 2, 6-dichloro-N-{[3-chloro-5- (trifluoromethyl)-2- pyridinyl] methyl} benzamide and chlorothalonil interact synergistically to effect this utility. The Examiner has produced no evidence that would indicate to those skilled in the art that the usefulness of these combinations are in any way a fluke. It is thus submitted that the Applicants have fulfilled the requirement for enablement by the examples provided. More should not be required. The purpose of the enabling requirement is to *enable* skilled artisans to use the disclosed invention, not to be drowned in a sea of data. Clearly, such artisans would know what to do, having read the disclosure of the present application, and certainly the additional disclosure of U.S. Patent No. 6,503,933.

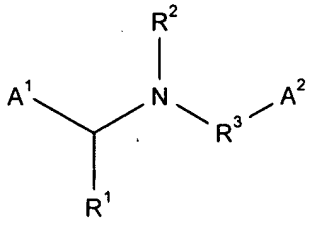
Further, the terminology "preventively or curatively" no longer appears in the claims, which now read on "combating and controlling phytopathogenic fungi."

Accordingly, it is requested that the rejection of claims 1-17 under 35 U.S.C. 112, first paragraph, be withdrawn.

Claims 1-17 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Moloney et al. (U.S. Patent No. 6,503,933) and The Agrochemicals Handbook, A0090 / Aug 91.

Moloney et al. disclose compounds of formula (I) and salts thereof as phytopathogenic fungicides wherein A^1 is substituted 2-pyridyl; A^2 is optionally substituted phenyl; R^3 is -(C=O)-,

$-SO_2-$ or -(C=S)-; R^1 is hydrogen, optionally substituted alkyl or acyl; and R^2 is hydrogen or optionally substituted alkyl:



It is understood that the Examiner has cited The Agrochemicals Handbook to show that the compound chlorothalonil is a known fungicide. This has been acknowledged by the present inventors in published paragraph [0015] of the present application.

It is understood to be the Examiner's position that Compound (I) is a known fungicide and chlorothalonil is a known fungicide and, thus, it would be obvious to use them in combination.

Applicants acknowledge that compounds of the pyridylmethylbenzamide type with fungicidal action, which make it possible to prevent the growth and the development of phytopathogenic fungi which attack or are capable of attacking crops, are known and that chlorothalonil is also a known fungicide. However, it is the Applicants' position that they have discovered a combination that is neither disclosed nor suggested by the cited art. Further, there is nothing in the cited art that would motivate a person of ordinary skill in the art to combine the teaching of Maloney et al. with the teaching of The Agrochemicals Handbook to arrive at the

present invention. Applicants have discovered a novel and unobvious combination of fungicides that exhibits a synergistic effect that allows a reduction of the chemical substances spread into the environment and a reduction of the cost of the fungal treatment. Thus, the combination of the present invention enables a reduction in the doses of chemical products spread in the environment in order to control fungal attacks of crops, especially potatoes, vegetables, and lawns, in particular by reducing the doses of the products for application, and increases the number of antifungal products available to farmers for them to find among them the fungicidal agent best suited to their particular use. These advantages are neither taught nor disclosed by the cited art.

Further, the present claims are not simply directed to the combination of pyridylmethylbenzamide compounds and chlorothalonil, but, rather, to combinations of these fungicides in relatively narrow, and specifically defined, ratios. There is no mention of the claimed ratios in the art cited by the Examiner, or in the publications pointed out by the applicants in paragraphs [0002] and [0003] of the present application.

It is therefore requested that the rejection of claims 1-17 under 35 U.S.C. 103(a) as being unpatentable over Moloney et al. and The Agrochemicals Handbook be withdrawn.

In view of the foregoing, it is submitted that this application is in condition for allowance and an early Office Action to that end is earnestly solicited.

Respectfully submitted,

Paul Grandinetti
Registration No. 30,754
OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue of the Americas
New York, New York 10036-8403
Telephone (212) 382-0700